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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re D.G., a Person Coming Under the
Juvenile Court Law.

B167027
(Los Angeles County
Super. Ct. No. CK47039)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Petitioner and Respondent,

v.

LAQUITA C.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County.

Joan Carney, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Judy Weissberg-Ortiz, under appointment by the Court of Appeal, for
Defendant and Appellant.

Lloyd W. Pellman, County Counsel, and Arezoo Pichvai, Deputy County
Counsel, for Petitioner and Respondent.

Laquita C. appeals the juvenile court's orders: (1) denying her Welfare and Institutions Code section 388¹ motion in which she sought reinstatement of reunification services and liberalized visitation with her daughter D.G.; and (2) terminating her parental rights to D.G. Laquita C.'s claims lack merit. First, Laquita C. failed to show sufficient change of circumstances to warrant the modification of prior custody orders or that such a modification was in the best interest of the minor. Consequently, the juvenile court did not abuse its discretion in denying her section 388 motion. Second, we conclude sufficient evidence supported the order to terminate Laquita C.'s parental rights. Accordingly, we affirm.

FACTUAL AND PROCEDURAL HISTORY

In August 1999, the court declared Laquita C., a minor, a delinquent because of her role in a robbery. The court sentenced her to two years incarceration. While residing at the Florence Crittenton group home, Laquita C. gave birth to D.G. On November 5, 2001, the Department of Children and Family Services (DCFS) detained two-month-old D.G. pursuant to a section 300 petition alleging, among other things, Laquita C.: (1) made homicidal threats to another group-home resident; (2) was a ward of the court; (3) was incarcerated at juvenile hall; and (4) was unable to care for D.G.

On November 20, 2001, D.G. was placed by the Orange County Social Services Agency (SSA) into the home of her maternal grandmother.

On November 30, 2001, the Orange County juvenile court ordered the case transferred to Los Angeles County juvenile court.² D.G. was removed from the grandmother's home and detained in an emergency shelter foster home because the

¹ All statutory references are to the Welfare and Institutions Code unless otherwise indicated.

² The Orange County Court found D.G. resided in Los Angeles County.

grandmother moved into a home with roommates who had criminal records, and, she stated she could no longer care for D.G.

In January 2002, the Los Angeles County juvenile court accepted jurisdiction over the case declaring D.G. a dependant of the court under section 300, subdivisions (b) & (j). The court ordered: (1) family reunification services; (2) Laquita C. to participate in individual counseling and parenting classes; and (3) DCFS to attempt to locate a facility where Laquita C. and D.G. could be placed together. On January 30, 2002, DCFS placed D.G. in the foster home of Tracey and Ernest S.

As of the six-month section 366.21 review hearing (June 28, 2002), Laquita C. was on probation and living at the Penny Lane living facility. She was participating in individual counseling and had bi-weekly visits with D.G. Laquita C. acted appropriately during the visits and the social worker reported that D.G. appeared comfortable with Laquita C. and the foster parents. Laquita C.'s visits were increased to two hours per week on May 21, 2002. D.G. appeared excited to see Laquita C.; Laquita C. interacted positively with D.G. throughout the visits. Laquita C. participated in counseling and began attending parenting classes. The foster family agency (FFA) reported D.G. adjusted well to living in Tracey and Ernest S.'s foster home, and she had developed a close bond with them. D.G. was eating and sleeping well and appeared to have easily integrated into the family. The foster parents were consistent and responsive to D.G.'s emotional needs and the FFA stated that "the loving approach they have taken with Daivyona [G.] will most likely continue to help her develop a positive sense of self." The court, finding Laquita C. partially complied with her case plan, ordered further reunification services.

On November 22, 2002, DCFS reported Laquita C. was released from Penny Lane. The social worker (CSW) encouraged Laquita C. to remain at Penny Lane because they were assisting her in visitation, counseling and with school. Laquita C. ignored CSW's advice and moved in with her mother. CSW also reported Laquita C.'s visits with D.G. were deteriorating. D.G. cried continuously throughout the visits and Laquita

C. could not soothe her. Laquita C. did not appear to be comfortable with D.G. and the child did not appear to want to be near Laquita C. D.G. was crying before, during, and after the visit, to the point where the child cried as soon as she saw the building where visitation occurred. Laquita C. began to skip many visits, the last of which occurred on October 15, 2002.

On December 19, 2002, the case manager for reunification services at Penny Lane stated that he and his staff attempted to locate Laquita C. many times at her home. One staff member personally took Laquita C. to enroll in a local adult school, but Laquita C. refused to enroll because the hours were too long. Laquita C. did not look for or obtain a job. She was not enrolled in counseling or parenting classes. Laquita C. said she would provide for D.G. by getting welfare.

At the twelve-month hearing (held January 10, 2003), DCFS recommended that the court terminate reunification services. Laquita C. was not present at the hearing. Consequently, the court terminated reunification services, limited Laquita C.'s visits to once per month, and set the matter for a section 366.26 selection and implementation hearing.

On March 6, 2003, Laquita C. filed a section 388 petition for modification of the court's order terminating services, alleging as new evidence she had complied with her case plan to the best of her ability. The court set a hearing on the petition for the same day as the section 366.26 hearing, May 9, 2003.

On March 23, 2003, Laquita C. was arrested for burglary, and thereafter the criminal court issued a bench warrant for her arrest for failing to appear at her probation hearing. In April 2003, Laquita kidnapped someone else's baby, thinking the child was Daivyona, threatening to "throw it out the window." Moreover, Laquita C. had been exhibiting strange behavior such as walking around naked and hiding on the property of the person with whom she was living. She began taking psychotropic medication after the incident.

An April 2003 report prepared for the section 366.26 hearing indicated Laquita C had not addressed the issues that brought her to the attention of the juvenile court, D.G. was not bonded to Laquita C., and it would be detrimental to D.G. to maintain contact with her mother. Furthermore, her recent actions indicated she had additional issues that hindered her ability to care for a child.

In contrast, D.G. appeared very bonded to her foster parents. The foster parents had adopted another foster child, Caleb, on August 14, 2002. CSW reported that D.G. and Caleb had lived in the foster home for almost all their lives, appeared to be very close, and enjoyed a bonded parent/child relationship with Tracey and Ernest S. The FFA social worker reported she observed D.G. calling her foster parents “mommy” and “daddy,” and D.G. was an integral part of the foster family. DCFS identified adoption as the permanent plan for D.G. with the prospective parents being the foster parents.

On May 9, 2003, the court heard and denied Laquita C.’s section 388 petition, finding that she did not substantially comply with or complete her case plan. Next, the court considered the section 366.26 issue. The court found by clear and convincing evidence it was likely that D.G. would be adopted and Laquita C. failed to meet the burden to establish that termination of parental rights would be detrimental to D.G. Accordingly, the court terminated Laquita C.’s parental rights and freed D.G. for adoption.

Laquita C. timely appeals both orders.

DISCUSSION

I. THE COURT DID NOT ABUSE ITS DISCRETION IN DENYING THE SECTION 388 MOTION

A. Standard of Review

It is rare that the denial of a petition under section 388 merits reversal. (*In re Kimberly F.* (1997) 56 Cal.App.4th 519, 522.) A section 388 petition is committed to the juvenile court's discretion; the court's ruling will not be disturbed on appeal unless an abuse of discretion is clearly established. A reviewing court will not reweigh the evidence or second guess the lower court unless the court has exceeded all bounds of reason by making a patently arbitrary, capricious or absurd determination. When two or more inferences can be reasonably deduced from the facts, we must affirm. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318.)

B. Section 388

Section 388 provides, in pertinent part, any parent of a dependent child of the juvenile court, "may upon grounds of change of circumstances or new evidence, petition the court . . . for a hearing to change, modify, or set aside an order of the court previously made. . . ." (§ 388.) Section 388 serves as an "'escape mechanism' when parents complete a reformation in the short final period after the termination of reunification services but before the actual termination of parental rights." (*In re Kimberly F.*, *supra*, 56 Cal.App.4th at p. 528.) "[I]t provides a means for the court to address a legitimate change in circumstances" to afford the parent one last opportunity to reinstate reunification services prior to final resolution of custody status. (*In re Marilyn H.* (1993) 5 Cal.4th 295, 309.)

C. Court's interpretation of 388

After the court terminates reunification services, the parent's interest in the care, custody and companionship of the child is no longer paramount. The focus shifts to the needs of the child for stability and permanent placement; there is a rebuttable presumption that continued foster care is in the best interests of the child. (*In re Stephanie M.*, *supra*, 7 Cal.4th at pp. 316-317.) Thus, in a proceeding under section 388, the moving parent shoulders the burden to demonstrate by a preponderance of the evidence changed circumstances or new evidence make a change in prior orders in the "best interest" of the child. (*Ibid.*)

A section 388 petition requires a two-step determination. First, the moving party must present new evidence or show a *genuine, significant and substantial change* of circumstances since the termination of reunification services. (*In re Kimberly F.*, *supra*, 56 Cal.App.4th at p. 529; *In re Jamika W.* (1997) 54 Cal.App.4th 1446, 1451; *In re Heraclio A.* (1996) 42 Cal.App.4th 569, 577.) Second, the parent must prove the undoing of the prior order would be in the *best interest* of the child. (*In re Kimberly F.*, *supra*, 56 Cal.App.4th at p. 529.) *In re Kimberly F.* describes three factors the courts use in determining whether a modification is in the best interest of the child. These factors are: "(1) the seriousness of the problem which led to the dependency, and the reason for any continuation of the problem; (2) the strength of relative bonds between dependent children to both parent and caretakers; and (3) the degree to which the problem may be easily removed or ameliorated, and the degree to which it actually has been." (*In re Kimberly F.*, *supra*, 56 Cal.App.4th at p. 532.)

On appeal, Laquita C. argues that the court erred in denying her section 388 petition because she established a substantial change of circumstances, specifically that she resolved her personal issues and poor parenting skills that initially led to dependency jurisdiction, and she showed that returning the child to her custody would be in the child's best interest. We disagree. As set forth below, Laquita C. failed to present

sufficient new evidence or a change of circumstances and failed to carry her burden with respect to the *Kimberley F.* factors.

1. No Significant and Substantial Change of Circumstance or New Evidence.

Laquita C. failed to present new evidence or show a substantial change in circumstances to support modification of the court's January 10, 2003, order terminating reunification services. The evidence presented showed a deterioration of her personal circumstances and relationship with D.G. Laquita C. did not complete the court ordered programs. She failed to secure safe and permanent housing that would be appropriate for D.G., she failed to complete the parenting program, and she failed to secure a job or enroll in school. Moreover, after she filed her section 388 petition in March 2003, Laquita C.'s mental condition further deteriorated: (1) she was arrested for burglary; (2) she had a warrant issued for her arrest for violating her probation; (3) she kidnapped another person's baby, threatening to "throw it out the window"; (4) exhibited strange behavior such as walking around naked and hiding on the property of a person with whom she was living; and (5) began taking psychotropic medication.

Laquita C. argues her attempts at improving her conditions were "stymied" by the lack of cooperation she received from DCFS and her probation officer, and that this court should consider her improvements made from February 2002 to October 2002 while living at the Penny Lane facility. This argument is without merit. Laquita C. clearly misunderstands the purpose of a section 388 petition. A section 388 petition requires Laquita C. to present *new* evidence or show a *substantial* change of circumstance between the date the court terminated reunification services and the date of the section 388 hearing. All the evidence upon which Laquita C. relies refers to circumstances *before* the court terminated reunification services in January 2003. Moreover, there is no evidence of progress in Laquita C.'s visitation and interaction with D.G. *after* the January

2003 hearing. Laquita C. saw D.G. once between January 2003 and May 9, 2003, and during that visit the social worker observed that D.G. refused to be held by Laquita C. and became agitated when Laquita C. came close to her. Based on the fact that there is absolutely no new evidence or positive change in Laquita C.'s circumstances in support of the 388 petition, we conclude that the court did not abuse its discretion in finding no new evidence or changed circumstances in this case.

2. Modifying The Court's Order Is Not In The Best Interest of D.G.

On appeal, Laquita C. also argues the court abused its discretion when analyzing the *Kimberly F.* factors and finding that a change of custody was not in D.G.'s "best interest." We disagree. Laquita C. has not shown error under *Kimberly F.*

a. Seriousness of problem that led to dependency.

Concerning the seriousness of the problem that led to the dependency, Laquita C.'s problems are serious; they involve more than a filthy home as was the case in *Kimberly F.* Laquita C. was incarcerated for two years, as a minor, for robbery. She lived in a group home with D.G. for a mere two months before she made homicidal threats to another group-home resident. Laquita C.'s arguments clearly do not recognize her personal actions have consequences. She was arrested for burglary *after* filing the 388 petition, which suggests her history of solving personal problems with violence and crime has not been resolved. Moreover, the evidence demonstrates Laquita C. has not solved her inability to adequately care for D.G. or even understand the responsibilities of parenting. She has not found adequate housing for herself or D.G. Instead of attempting to find a job, she told the social worker she would go on welfare. In addition, her

interactions with D.G. deteriorated. Consequently, the first *Kimberly F.* factor does not support Laquita C.'s claim.

b. Relative bond between parent and child and foster parent and child.

In regards to the second *Kimberly F.* factor, the relative bond between the parties clearly favors the foster parents, Tracey and Ernest S. Laquita C. had custody of D.G. for two months. The foster parents have had custody of D.G. for almost twenty months. D.G. calls her foster parents “mommy” and “daddy.” Their home is stable. D.G. has a foster brother, Caleb, whom the foster parents adopted in August 2002. The social worker testified that “Daivyona is truly an integral part of this family.” In contrast, Laquita C. has not taken a primary parent role during her visits with D.G. Their interaction during the visits has consistently deteriorated to the point where D.G. cries before, during, and after the visits; she refuses to be held by Laquita C. As in *Stephanie M.*, D.G. exhibits emotional distress and anxiety when separated from her foster parents. (*In re Stephanie M.*, *supra*, 7 Cal.4th at p. 307; cf. *In re Kimberly F.*, *supra*, 56 Cal.App.4th at p. 535.) Therefore, we are convinced the relative bond is stronger between D.G. and her foster parents than between D.G. and Laquita C. This factor does not support Laquita C.'s claim.

c. Solved problem that led to dependency.

Finally, we turn to the third factor: the degree to which Laquita C. solved the problems leading to the dependency. As stated above, there have been additional incidents of violence, crime and personal problems by Laquita C. since the January 2003 order. Laquita C. has not completed her parenting classes, and she has not maintained a stable home. She even failed to follow through on finding a job or attending school.

There is no evidence that Laquita C. has the ability, means, or understanding of how to parent D.G. in a safe, competent manner. Thus, Laquita C.'s motion did not satisfy the third *Kimberly F.* factor.

In sum, because Laquita C. failed to carry her burden on the section 388 petition, we cannot say the trial court abused its discretion in denying it.

II. The Court Did Not Abuse its Discretion in Terminating Laquita C.'s Parental Rights and In Selecting Adoption As The Permanent Placement Plan for D.G.

On appeal, Laquita C. contends that the court's order terminating her parental rights and selecting adoption as the permanent placement plan for D.G. must be reversed because she developed a beneficial parent-child bond with D.G., she maintained regular visits with her, and D.G. would be greatly harmed if the relationship was severed. As set forth below, Laquita C.'s arguments lack merit.

At the section 366.26 hearing the court must select and implement a permanent plan for the child. The court has four alternatives in doing so: (1) termination of parental rights and adoption; (2) identification of adoption as the plan but without immediate termination of parental rights; (3) appointment of a guardian without termination of parental rights; or (4) long-term foster case. (§ 366.26, subds. (b)(1)-(4); *In re Jessie G.* (1997) 58 Cal.App.4th 1, 3.) Because the express purpose of section 366.26 is to provide stable *permanent* homes for dependent minors, the preferred placement plan among the four alternatives is adoption. (*In re Ronell* (1996) 44 Cal.App.4th 1352, 1368.)

Thus, in selecting a placement plan, the court must determine whether the child will be adopted based upon DCFS's assessment concerning the likelihood of adoption if parental rights are terminated. (§§ 366.26, subd. (c)(1); 366.21, subd. (i).)³ If the court

³ The Assessment must include:

finds the child adoptable, findings made at previous status review hearings⁴ are sufficient to support the termination of parental rights unless the court finds the termination would

“(1) Current search efforts for an absent parent or parents or legal guardians.

“(2) A review of the amount of and nature of any contact between the child and his or her parents or legal guardians and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, ‘extended family’ for the purpose of this paragraph shall include, but not be limited to, the child’s siblings, grandparents, aunts, and uncles.

“(3) An evaluation of the child’s medical, developmental, scholastic, mental, and emotional status.

“(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child’s needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, and the relative was assessed for foster care placement of the minor prior to January 1, 1998, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3.

“(5) The relationship of the child to any identified prospective adoptive parent or legal guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the child concerning placement and the adoption or guardianship, unless the child’s age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

“(6) An analysis of the likelihood that the child will be adopted if parental rights are terminated.” (§ 366.26, subd. (i).)

⁴ These “findings” are: (1) reunification services shall not be offered; (2) the whereabouts of a parent have been unknown for six months or the parent has failed to visit or contact the child for six months; (3) the parent has been convicted of a felony indicating parental unfitness; (4) the minor cannot or should not be returned to the custody of the parent. (§ 366.26, subd. (c)(1).)

be detrimental to the child under one of the five enumerated circumstances in section 366.26, subdivision (c)(1)(A) through (E).

At issue here is the exception in subdivision (c)(1)(A), which provides the court should not order permanent plan of adoption when termination of parental rights would be detrimental to the child because “[t]he parents . . . have maintained regular visitation and contact with the [child] and the [child] would benefit from the continuation relationship.” (§ 366.26, subd. (c)(1)(A).)⁵

⁵ The other exceptions set forth in 366.26, subdivision (c)(1) are:

“(B) A child 12 years of age or older objects to termination of parental rights.

“(C) The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent finding the child a permanent family placement if the parents cannot resume custody when residential care is no longer needed.

“(D) The child is living with a relative or foster parent who is unable or unwilling to adopt the child because of exceptional circumstances, that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of providing the child with a stable and permanent environment and the removal of the child from the physical custody of his or her relative or foster parent would be detrimental to the emotional well-being of the child. This subparagraph does not apply to any child who is living with a nonrelative and who is either (i) under six years of age or (ii) a member of a sibling group where at least one child is under six years of age and the siblings are, or should be, permanently placed together.”

“(E) There would be substantial interference with a child’s sibling relationship, taking into consideration the nature and extent of the relationship, including, but not limited to, whether the child was raised with a sibling in the same home, whether the child shared significant common experiences or has existing close and strong bonds with a sibling, and whether ongoing contact is in the child’s best interest, including the child’s long-term emotional interest, as compared to the benefit of legal permanence through adoption.

This exception has been interpreted to mean the parent/child relationship must promote the well-being of the child: “[t]o such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents. In other words, the court balances the strength and quality of the natural parent/child relationship in a tenuous placement against the security and sense of belonging to a new family would confer. If severing the natural parent/child relationship would deprive the child of a substantial positive emotional attachment such that the child would be greatly harmed, the preference for adoption is overcome and the natural parent’s rights are not terminated. [¶] The significant attachment from child to parent results from the adult’s attention to the child’s needs for physical care, nourishment, comfort, affection and stimulation. [Citations.] The relationship arises from day to day interaction, companionship, and shared experiences. The exception applies only when the court finds regular visits and contact have continued or developed a significant, positive, emotional attachment from child to parent.” (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 575-576.)

The exception was further clarified in *In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1418-1419, where the court opined that frequent contact and visits with the minor are sufficient only where such contact has continued to develop a positive and significant parent/child relationship. (*Ibid.*) Thereafter in *In re Casey D.* (1999) 70 Cal.App.4th 38, 50-52, the court concluded: “Another way of stating the beneficial parent-child concept described in *Autumn H.* is: a relationship characteristically arising from day-to-day interaction, companionship and shared experiences. Day-to-day contact is not necessarily required, although it is typical in a parent-child relationship. A strong and beneficial parent-child relationship might exist such that termination of parental rights would be detrimental to the child, particularly in the case of an older child, despite a lack of day-to-day contact and interaction.” (*Id.* at p. 51.)

Autumn H. and *Beatrice M.* were refined in *In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1350. In *Jasmine D.* the court urged a case-by-case analysis of competing considerations including the child’s age, needs, amount of time/life spent in

the parent's custody and the effect of the interaction between the parent and child and endorsed the requirement that a "parental relationship" is necessary for the exception to apply, not a mere friendly or familiar one. Finally, the court observed: "[A] child should not be deprived of an adoptive parent when the natural parent has maintained a relationship that may be beneficial to some degree but does not meet the child's need for a parent. It would make no sense to forego adoption in order to preserve parental rights in the absence of a real parental relationship." (*Id.* at p. 1350.)

Laquita C. asserts that the juvenile court erred in failing to apply section 366.26, subdivision (c)(1)(A). She alleges maintaining the parent-child relationship was in D.G.'s best interest because she maintained regular visitation and contact with D.G., and she had a bonded parent-child relationship with her. These assertions lack support in the record.

A. Contact and Visits.

Laquita C. has had some contact with D.G. over the approximate twenty months since D.G. was placed in protective custody. When the family visitation began in March 2002, Laquita C. consistently visited the child and acted appropriately with her. Her visits initially increased to two hours per week and then to two two-hour visits per week and D.G. appeared excited to see her. Laquita C. began parenting classes. The nature of the contact changed, however, beginning in August 2002. The social worker reported that D.G. cried excessively, and Laquita C. was unable to comfort her. The mother did not appear to be comfortable with the child and the child did not appear to want to be near the mother. Further, the social worker reported that she was concerned for D.G.'s emotional well-being because the child reacted to the visits by crying before, during and after the visit. The situation deteriorated to the point that D.G. began crying as soon as she saw the building where visits occurred. Moreover, Laquita C. stopped visiting D.G. in October 2002 and did not visit with the child until April 2003.

It is clear that the nature of the visits between D.G. and Laquita C. never progressed beyond a mere friendly or familiar one. (*In re Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1350.) In fact, the evidence demonstrates that the visits were progressively detrimental to D.G.'s emotional well-being. Moreover, the quantity of the visits decreased over the dependency period, both in length and in frequency; Laquita C. never progressed to unsupervised contact. Thus, Laquita C. failed to meet the first prong of the exception to 366.26, subdivision (c)(1)(A).

B. Benefit to the child from continued relationship/parental relationship.

Laquita C. also argues that her contact and visits gave rise to beneficial, bonded parent-child relationship with D.G. Her claim is without merit.

Laquita C. failed to occupy a parental role in D.G.'s life. Her relationship with D.G. never progressed from that of a relative or a friend. (*In re Beatrice M.* (1994) 29 Cal.App.4th 1411,1420.) "That showing [is] difficult to make in the situation, such as the one here, where the parents have . . . [not] advanced beyond supervised visitation." (*In re Casey D.* (1999) 70 Cal.App.4th 38, 51.) The court in *In re Jeremy S.* (2001) 89 Cal.App.4th 514, 523 (overruled on other grounds by *In re Zeth S.* (2003) 31 Cal.4th 396), found that while the mother demonstrated contact during the dependency period that was loving and beneficial to Jeremy's educational needs by reading and doing puzzles with him, and acted as parent by disciplining him when needed during visits, it was not enough to establish the "'benefit from a continuing relationship' contemplated by the exception." Here, any benefit D.G. may have received from contact with Laquita C. during the dependency period does not even rise to that which the court in *In re Jeremy S.* found insufficient.

Moreover, the evidence clearly demonstrates that D.G. has a bond with Tracey and Ernest S., her foster parents, they are willing and able to provide her with a loving and stable home that is responsive to D.G.'s emotional needs, and they wish to adopt her.

D.G. should not be deprived of the opportunity to remain in a secure, loving family home when Laquita C. failed to show she has assumed any parental role or she has any ability to meet D.G.'s needs. (*In re Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1350.)

Thus, we conclude Laquita C. failed to meet the second prong of the exception. Therefore, the court did not err in failing to apply the exception to adoption found in section 366.26, subdivision (c)(1)(A).

DISPOSITION

The orders of the juvenile court are affirmed.

WOODS, J.

We concur:

PERLUSS, P.J.

ZELON, J.